

Introduced by Senator Kuehl

February 22, 2008

An act to amend Section 1380 of the Health and Safety Code, relating to health care service plans.

LEGISLATIVE COUNSEL'S DIGEST

SB 1525, as introduced, Kuehl. Health care service plans: onsite medical survey.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care. Existing law requires the department, as often as the director of the department deems necessary, but not less frequently than once every 3 years, to conduct an onsite medical survey of the health delivery system of each plan to assure protection of subscribers and enrollees, as specified. Existing law requires that the survey include a review of, among other things, the procedures for obtaining health services, the procedures for regulating utilization, and the internal procedures for assuring quality of care.

This bill would require that the survey also include a review of the procedures for making determinations of medical necessity.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1380 of the Health and Safety Code is
- 2 amended to read:
- 3 1380. (a) The department shall conduct periodically an onsite
- 4 medical survey of the health delivery system of each plan. The

1 survey shall include a review of the procedures for obtaining health
2 services, the procedures for regulating utilization, *the procedures*
3 *for making determinations of medical necessity*, peer review
4 mechanisms, internal procedures for assuring quality of care, and
5 the overall performance of the plan in providing health care benefits
6 and meeting the health needs of the subscribers and enrollees.

7 (b) The survey shall be conducted by a panel of qualified health
8 professionals experienced in evaluating the delivery of prepaid
9 health care. The department shall be authorized to contract with
10 professional organizations or outside personnel to conduct medical
11 surveys and these contracts shall be on a noncompetitive bid basis
12 and shall be exempt from Chapter 2 (commencing with Section
13 10290) of Part 2 of Division 2 of the Public Contract Code. These
14 organizations or personnel shall have demonstrated the ability to
15 objectively evaluate the delivery of health care by plans or health
16 maintenance organizations.

17 (c) Surveys performed pursuant to this section shall be
18 conducted as often as deemed necessary by the director to assure
19 the protection of subscribers and enrollees, but not less frequently
20 than once every three years. Nothing in this section shall be
21 construed to require the survey team to visit each clinic, hospital
22 office, or facility of the plan. To avoid duplication, the director
23 shall employ, but is not bound by, the following:

24 (1) For hospital-based health care service plans, to the extent
25 necessary to satisfy the requirements of this section, the findings
26 of inspections conducted pursuant to Section 1279.

27 (2) For health care service plans contracting with the State
28 Department of Health *Care* Services pursuant to the
29 Waxman-Duffy Prepaid Health Plan Act, the findings of reviews
30 conducted pursuant to Section 14456 of the Welfare and
31 Institutions Code.

32 (3) To the extent feasible, reviews of providers conducted by
33 professional standards review organizations, and surveys and audits
34 conducted by other governmental entities.

35 (d) Nothing in this section shall be construed to require the
36 medical survey team to review peer review proceedings and records
37 conducted and compiled under Section 1370 or medical records.
38 However, the director shall be authorized to require onsite review
39 of these peer review proceedings and records or medical records
40 where necessary to determine that quality health care is being

1 delivered to subscribers and enrollees. Where medical record
2 review is authorized, the survey team shall insure that the
3 confidentiality of physician-patient relationship is safeguarded in
4 accordance with existing law and neither the survey team nor the
5 director or the director's staff may be compelled to disclose this
6 information except in accordance with the physician-patient
7 relationship. The director shall ensure that the confidentiality of
8 the peer review proceedings and records is maintained. The
9 disclosure of the peer review proceedings and records to the
10 director or the medical survey team shall not alter the status of the
11 proceedings or records as privileged and confidential
12 communications pursuant to Sections 1370 and 1370.1.

13 (e) The procedures and standards utilized by the survey team
14 shall be made available to the plans prior to the conducting of
15 medical surveys.

16 (f) During the survey the members of the survey team shall
17 examine the complaint files kept by the plan pursuant to Section
18 1368. The survey report issued pursuant to subdivision (i) shall
19 include a discussion of the plan's record for handling complaints.

20 (g) During the survey the members of the survey team shall
21 offer such advice and assistance to the plan as deemed appropriate.

22 (h) (1) Survey results shall be publicly reported by the director
23 as quickly as possible but no later than 180 days following the
24 completion of the survey unless the director determines, in his or
25 her discretion, that additional time is reasonably necessary to fully
26 and fairly report the survey results. The director shall provide the
27 plan with an overview of survey findings and notify the plan of
28 deficiencies found by the survey team at least 90 days prior to the
29 release of the public report.

30 (2) Reports on all surveys, deficiencies, and correction plans
31 shall be open to public inspection except that no surveys,
32 deficiencies, or correction plans shall be made public unless the
33 plan has had an opportunity to review the report and file a response
34 within 45 days of the date that the department provided the report
35 to the plan. After reviewing the plan's response, the director shall
36 issue a final report that excludes any survey information and legal
37 findings and conclusions determined by the director to be in error,
38 describes compliance efforts, identifies deficiencies that have been
39 corrected by the plan by the time of the director's receipt of the
40 plan's 45-day response, and describes remedial actions for

1 deficiencies requiring longer periods to the remedy required by
2 the director or proposed by the plan.

3 (3) The final report shall not include a description of
4 “acceptable” or of “compliance” for any uncorrected deficiency.

5 (4) Upon making the final report available to the public, a single
6 copy of a summary of the final report’s findings shall be made
7 available free of charge by the department to members of the
8 public, upon request. Additional copies of the summary may be
9 provided at the department’s cost. The summary shall include a
10 discussion of compliance efforts, corrected deficiencies, and
11 proposed remedial actions.

12 (5) If requested by the plan, the director shall append the plan’s
13 response to the final report issued pursuant to paragraph (2), and
14 shall append to the summary issued pursuant to paragraph (4) a
15 brief statement provided by the plan summarizing its response to
16 the report. The plan may modify its response or statement at any
17 time and provide modified copies to the department for public
18 distribution no later than 10 days from the date of notification from
19 the department that the final report will be made available to the
20 public. The plan may file an addendum to its response or statement
21 at any time after the final report has been made available to the
22 public. The addendum to the response or statement shall also be
23 made available to the public.

24 (6) Any information determined by the director to be
25 confidential pursuant to statutes relating to the disclosure of
26 records, including the California Public Records Act (Chapter 3.5
27 (commencing with Section 6250) of Division 7 of Title 1 of the
28 Government Code), shall not be made public.

29 (i) (1) The director shall give the plan a reasonable time to
30 correct deficiencies. Failure on the part of the plan to comply to
31 the director’s satisfaction shall constitute cause for disciplinary
32 action against the plan.

33 (2) No later than 18 months following release of the final report
34 required by subdivision (h), the department shall conduct a
35 follow-up review to determine and report on the status of the plan’s
36 efforts to correct deficiencies. The department’s follow-up report
37 shall identify any deficiencies reported pursuant to subdivision (h)
38 that have not been corrected to the satisfaction of the director.

39 (3) If requested by the plan, the director shall append the plan’s
40 response to the follow-up report issued pursuant to paragraph (2).

1 The plan may modify its response at any time and provide modified
2 copies to the department for public distribution no later than 10
3 days from the date of notification from the department that the
4 follow-up report will be made available to the public. The plan
5 may file an addendum to its response at any time after the
6 follow-up report has been made available to the public. The
7 addendum to the response or statement shall also be made available
8 to the public.

9 (j) The director shall provide to the plan and to the executive
10 officer of the Board of Dental Examiners a copy of information
11 relating to the quality of care of any licensed dental provider
12 contained in any report described in subdivisions (h) and (i) that,
13 in the judgment of the director, indicates clearly excessive
14 treatment, incompetent treatment, grossly negligent treatment,
15 repeated negligent acts, or unnecessary treatment. Any confidential
16 information provided by the director shall not be made public
17 pursuant to this subdivision. Notwithstanding any other provision
18 of law, the disclosure of this information to the plan and to the
19 executive officer shall not operate as a waiver of confidentiality.
20 There shall be no liability on the part of, and no cause of action of
21 any nature shall arise against, the State of California, the
22 Department of Managed Health Care, the Director of the
23 Department of Managed Health Care, the Board of Dental
24 Examiners, or any officer, agent, employee, consultant, or
25 contractor of the state or the department or the board for the release
26 of any false or unauthorized information pursuant to this section,
27 unless the release of that information is made with knowledge and
28 malice.

29 (k) Nothing in this section shall be construed as affecting the
30 director's authority pursuant to Article 7 (commencing with Section
31 1386) or Article 8 (commencing with Section 1390) of this chapter.